

**SAN ANTONIO UNIFORMED SERVICES HEALTH EDUCATION CONSORTIUM
(SAUSHEC)
DUE PROCESS POLICY
FOR RESIDENTS IN GRADUATE MEDICAL EDUCATION PROGRAMS**

I. General.

A. This document outlines the SAUSHEC Due Process Policy for residents who encounter academic, technical, and/or professional conduct problems achieving the Knowledge, Skills and Attitudes required of an independent practitioner. Such problems are to be specifically identified in one or more domains of the 6 General Competencies of the ACGME, based on determinations using appropriate evaluation tools.

The procedures prescribed herein apply to Program Level Remediation (PLR), Dean's Administrative Remediation (DAR), academic probation, extension of training, and termination from training. These procedures present a sequence of corrective steps, emphasizing due process, thorough documentation of all actions, and timeliness of the process.

B. These procedures must be applied uniformly and fairly by the Graduate Medical Education Committee (GMEC) to all residents in each SAUSHEC program. The SAUSHEC Due Process Policy applies to all residents in training programs for any issues relating to professional or academic performance, regardless of the sponsoring uniformed service. Issues of misconduct and/or noncompliance with uniformed service regulations may also be independently reviewed according to the policies of the resident's commander and sponsoring uniformed service.

C. Upon entry into a training program, the resident will be provided a written or electronic copy (available on the SAUSHEC website) of this Due Process Policy, will sign a statement acknowledging receipt of this policy and awareness of the contents therein. This signed statement will be maintained in the resident's training file.

D. Resident's will be fully informed regarding each step of any academic remediation. A resident's refusal to acknowledge receipt of written remediation recommendations during any process prescribed herein will be documented, but will not result in a delay of any recommended action or proceeding.

II. Definition of Terms. These terms are defined to conform to the administrative structures of SAUSHEC.

A. SAUSHEC is the GME consortium of Brooke Army Medical Center (BAMC) and Wilford Hall Medical Center (WHMC) that was created to administer and manage military GME programs in San Antonio. SAUSHEC is the ACGME- recognized sponsoring institution for all military GME programs in San Antonio.

B. Dean, SAUSHEC. The institutional official having the authority and the responsibility for oversight and administration of SAUSHEC GME programs. He/she is also the ACGME-Designated Institutional Official (DIO) for GME for the consortium.

C. Associate Dean for GME, SAUSHEC. Both BAMC and WHMC have Associate Deans for GME . Working under the direction of the Dean, these individuals are the on-site, day-to-day managers of GME issues at their respective institutions.

D. Decision Authority. An individual/committee designated in institutional documents as retaining initial approval authority for academic actions. The decision authority for SAUSHEC regarding academic actions is the GMEC.

E. Appellate Authority. An individual designated in institutional documents as having final SAUSHEC authority for an academic action. The SAUSHEC appellate authority for probations and extensions of training is the Dean. For termination actions, the SAUSHEC appellate authority is the medical treatment facility (MTF) commander (or designee) of the resident's sponsoring uniformed service. As the Dean is an appellate authority for probation and extensions (and is involved in the appeals process for termination), he/she will neither vote nor conduct the GMEC executive sessions where these actions are presented. An Associate Dean or senior GMEC member will chair the GMEC executive session when considering these academic actions. A higher appellate authority may exist for adverse actions that affect the resident's military career.

F. Graduate Medical Education Committee (GMEC). The institutional committee composed of the Dean, Associate Deans, program directors from each program, resident representatives and other SAUSHEC faculty. The GMEC's charter is to monitor and advise on all aspects of SAUSHEC GME. To conduct business, the GMEC must have a quorum (defined as 50 percent of its voting membership present).

G. Institutional Documents/Policies. The organizational documents/policies that define the structure, processes, chain of authority and accountability for SAUSHEC.

H. SAUSHEC MTF and MTF Commander. A military treatment facility (hospital) in which SAUSHEC Graduate Medical Education training occurs. Each SAUSHEC MTF has a commander who retains military administrative responsibility for the uniformed service faculty and residents assigned to his/her command.

I. Uniformed Service. SAUSHEC residents are, for the most part, active duty officers of the Uniformed Services (Army, Air Force, or Navy). Residents on active duty are governed by SAUSHEC GME policies, the Uniformed Code of Military Justice, and rules and regulations specific to their respective uniformed service.

J. Program training committee. Each SAUSHEC GME program will utilize a program training committee (may be called by other names) comprised of key faculty members and, when appropriate, resident representatives. The program director or designee will chair this committee

which will assist him/her in developing program curricula, policies and program evaluations. This committee assists in the management of residents who may not be meeting program or military standards.

K. Remediation plan. Counseling, Program Level Remediation, Dean's Administrative Remediation, Probation and Extension of training are all considered remediation processes designed to help a resident meet program and/or military standards of the Knowledge, Skills and Attitudes required in the domains of the 6 General Competencies of the ACGME.

L. Adverse actions. Probation, Extension in training for academic problems, and termination from training for failure to meet standards indicate the resident encountered significant difficulty in achieving the Knowledge, Skills and Attitudes required in the domains of the 6 General Competencies of the ACGME. These actions are generally considered "reportable adverse actions" by many state licensing boards, hospital credential committees and/or by the National Practitioner Data Bank. The decision to report adverse actions to state or national agencies is typically made by the Office of the Surgeon General for the Army and Air Force. Many state and local credentialing or licensure offices may also request such information from the trainee's file. Formative evaluations to include rotation evaluations, counseling at the program level and Program Level Remediation are *not* considered reportable adverse actions (even if they have "negative" comments) since they have not been peer reviewed by the GMEC.

M. Faculty Board. A board of SAUSHEC faculty members that are assigned by the Dean to conduct a formal resident appeal of an adverse action. (See paragraph XI.)

III. Program Director Responsibility Program directors are responsible for compliance with the requirements prescribed in this Due Process policy to include:

- A. Ensuring a training file is maintained for each resident.
- B. Ensuring a SAUSHEC training agreement is signed by each resident prior to entry into a GME program and ensuring it is maintained in the resident's training file.
- C. Ensuring the program has an effective program training committee system to assist in management and improvement of the program, to assess the performance of the residents, and assist in developing remediation recommendations for residents who are not meeting program standards.
- D. Ensuring residents are provided with written educational goals and objectives specific to each training year that outline the Knowledge Skills and Attitudes that are expected of the resident in each of the 6 General Competencies.
- E. Ensuring that the program has an evaluation system in place that identifies as early as possible residents with deficiencies in Knowledge, Skills, and Attitudes in each of the ACGME six General Competencies and residents that are non-compliant with military service regulations such as those specifying weight, physical fitness, licensure, etc. The evaluation system must ensure that residents are given competency based written performance evaluations using reliable

evaluation tools. These evaluations must be performed at appropriate intervals that document whether the resident is achieving the educational goals of the program. The frequency of the written evaluations must satisfy the requirements of the Program's Residency Review Committee, but at a minimum they must be performed semi-annually.

F. Ensuring that a remediation plan is initiated and counseling with the resident documented when a resident with significant deficiencies in Knowledge, Skills, or Professional Attitudes (or noncompliance with military service requirements) is identified.

G. Ensuring patient, resident and institutional safety and integrity. The program director with his/her program training committee will immediately investigate any allegation of unethical behavior, unprofessional conduct, resident health problems or concerns that the resident cannot safely engage in patient care at the level expected at his/her stage of training. If, during an interview a resident begins to disclose information that indicates a violation of the Uniform Code of Military Justice (UCMJ) may have occurred, the program director will halt the interview immediately, apprise the individual of his/her rights against self-incrimination and immediately contact the proper military legal and command authorities. In addition to notification of proper chain of command authorities for administrative or legal action, the issue must be presented to the GMEC for consideration of adverse academic action. After the circumstances are reviewed, the program director and training committee must determine what the residents training status should be pending final decision by the GMEC or the administrative/legal investigation. They may either allow the resident to continue in his/her duties, or may restrict or suspend the resident's training status and patient care activities pending final decisions by the GMEC and or the Commander. Any adverse academic action must afford due process in accordance with this policy document. The resident will be advised that this issue will be reviewed by the GMEC and will be given a copy of this due process policy. The Dean will schedule a time to review this proposed action at the next regularly scheduled GMEC meeting or conduct an ad hoc meeting of the GMEC as necessary.

1. If the Program Director and training committee feel the resident can be allowed to continue in his/her duties pending GMEC or Command investigation, the program director must record in the resident training file the allegation and the results of the inquiry reflecting confidence in the resident's ability to perform all his/her duties and must so inform the Dean and the appropriate Department Chair(s) where the resident will be training and/or who has chain of command authority over the resident.

2. If the program director and training committee decide to restrict or suspend the resident's training status and patient care activities during the investigation(s), the program director must: 1) notify the resident in writing that his/her training status and patient care activities are restricted or suspended and must specify the deficiencies, acts, or circumstances for which restriction or suspension from training status is imposed 2) notify, in writing, the clinical department head to whom the resident is assigned that the resident's training status and patient care activities are restricted or suspended 3) submit a written record of the allegation, inquiry and plan for restriction/suspension to the Dean that documents that the resident and appropriate Department Chair(s) have been informed of this decision.

IV. Documentation of Resident Performance. Minimum documentation of a resident's performance by a Program Director is written documentation of the required semi-annual assessment and counseling of the resident's progress in achieving the Program's competency based educational goals and objectives. Programs should do more frequent written documentation of resident performance when there are indications the resident is not achieving goals and objectives.

A. Assessment of the resident's performance should consider the progressive development, under supervision, of the Knowledge, Skills, and Attitudes in the domains of the ACGME six General Competencies required for safe, effective and compassionate patient care commensurate with the resident's level of training and responsibility.

B. When progress is below program standards, the program director must assess:

1. Adequacy of clinical and academic experiences in the program.
2. Adequacy of supervision and teaching and scholarly activity in the program.
3. Adequacy of the resident's personal learning program for professional growth with guidance from the teaching staff.
4. Adequacy of the resident's full participation in the educational and scholarly activities of the program.
5. Assess whether there are any underlying issues (for example emotional, health, financial, marital, or familial stressors) that may be contributing to the resident's failure to achieve standards.

V. Remediation Plans. Education programs require flexibility in program structure and design to maximize the chances of success for each individual resident to achieve competence. Residents should be evaluated and given feedback, counseling and faculty assistance to overcome deficiencies. Any academic remediation action must be thoroughly discussed with the resident, documented in writing and made part of the resident training file. When the program director and the program training committee identify residents whose academic, professional or military performance fails to meet expected standards of Knowledge, Skills or Attitudes of a competency, they must develop a written remediation plan that will outline what competencies are not being met and what is needed to get the resident back on track. The remediation plan will include objective criteria by which improvement can be judged, the time period for the remediation, the resources available to help the resident and the consequences of not fixing the problem in the time allowed. (SAUSHEC has an Academic Action Template (AAT) that has been developed to assist the program director in both documenting deficiencies and in planning remediation plans based upon the core competencies. While its use by the program director is not mandatory, use of the AAT is highly recommended. The resident will sign acknowledgement of receipt of this remediation plan. Residents may be considered for different levels of remediation to include Program Level Remediation, GMEC approved academic probation, or extension in training based upon any of the following:

A. Failure to meet academic or technical competency based performance standards or objectives of the training program.

B. Lack of application to include--but not limited to—unexcused absences, tardiness, and/or failure to perform clinical duties in a timely or adequate fashion.

C. Conduct considered unprofessional that directly affects the practice of medicine, conduct of the training program or performance of military duties.

D. Failure to meet professional or administrative (military, GME or hospital) responsibilities, such as: military standards for weight, physical fitness; completion of Step III of the USMLE examination by the end of the PGY1 year; meeting the DOD requirement to obtain an unrestricted state license by the end of the PGY2 year; fulfilling hospital requirements to have BLS certification; and meeting GME requirements to complete certain paper work etc.

E. Incidents of gross negligence or willful misconduct, including violations of the UCMJ.

VI. Program Level Remediation (PLR). PLR allows for correction of deficiencies without GMEC approved academic probation and should be preceded by written documentation of counseling between the resident and the program director/program training committee. The program director must notify the Dean or Associate Dean of any PLR actions so that the GME office may track resident activity be apprised of the potential for future academic actions.

A. In general, PLR precedes formal academic probation except in cases of gross negligence or willful misconduct or dishonesty, which can be referred to the GMEC for immediate consideration of academic probation or termination.

B. A PLR plan should typically not exceed 60 days, and may not be extended or repeated without discussion with the Dean or an Associate Dean.

C. The program director will provide the resident with a clear, written PLR plan that will include the following:

1. Description of specific competency deficiencies and previous efforts (counseling) to remedy them.

2. Methods and resources to be used to improve the noted deficiencies.

3. Objective goals that must be achieved to be removed from PLR.

4. Restrictions or conditions placed on the resident during the PLR period.

5. Time frame for documentation of improvement (usually not to exceed 60 days).

6. Consequences of failing to remediate the deficiencies in the allotted time.

D. The program director will offer the resident practical assistance including, when appropriate, mental health counseling, to maximize the chances of achieving the goals of the PLR plan, and will designate a faculty advisor (which in small programs could be the Program Director) to assist the resident during remediation.

E. The program director will ensure that the resident has a clear understanding of the remediation plan. The resident will sign a statement acknowledging receipt of the program level remediation plan. This signed statement will be maintained in the resident's training file.

F. PLR is considered formative feedback and is not an adverse academic action that must be reported by SAUSHEC, the program or the resident to outside agencies.

VII. Dean's Administrative Remediation (DAR).

A. When a resident who is otherwise performing well in his/her academic training fails to meet certain administrative milestones required by military or civilian regulatory agencies(e.g., failure to take and/or pass the USMLE during the PGY1 year; failure to obtain an unrestricted state medical license within 2 years of medical school graduation; persistent failure to meet military requirements) , he/she will automatically be placed on DAR by the Dean following notification of deficiencies by the program director. This level of remediation may also be requested by a program director for academic deficiencies that have not been corrected by PLR but do not yet warrant GMEC approved probation or extension. In both cases the program directors proposal will be reviewed and approved by the Dean and presented to the GMEC for informational purposes only.

B. DAR will generally be for a period of three months or less. When the resident completes the administrative requirement or meets academic standards, he/she will be returned to normal training status and his/her training record will be expunged.

C. If the resident fails to meet the remediation requirement in the allotted time, the resident will be considered for an extension of the DAR. Extension will be considered if the resident is making a good faith effort to complete the requirement but has not been successful due to factors beyond his/her control. If the resident is not making a good faith effort to complete the requirement within 3 months, or has been unable to complete the requirement after one extension, he/she will be brought before the GMEC for consideration of academic probation, extension of training or termination.

VIII. Academic Probation. (See also Appendix I.) A program director may propose academic probation for a resident after a period of Program Level Remediation or Dean's Administrative Remediation, after persistent uncorrected poor performance/attitude, or after a single incident of gross negligence or willful misconduct. Academic Probation is a GMEC approved supervised remediation plan to assist the resident in understanding and correcting significant deficiencies in Knowledge, Skills or Attitudes in the domains of the six General

Competencies. The period of academic probation generally will be at least 30 days and usually will not exceed three months (note academic probation periods will usually end 5 working days after a scheduled GMEC). On the recommendation of the program director the GMEC may vote to extend the term of academic probation for a period not to exceed an additional 3 months (note academic probation extensions will usually end 5 working days after a scheduled GMEC). Residents who fail to demonstrate adequate improvement after two consecutive periods of academic probation generally will be recommended for an extension of training or termination under this policy's due process procedures. Academic probationary status may end in a return to full training status, extension of training, resignation or termination from training.

A. The Program Director's proposal for academic probation may be based upon one or more of the following and must be fully documented:

1. Failure to meet the Competency based academic, professional, military or technical performance standards of the program.
2. Lack of endeavor in the training program.
3. Lack of application of the resident's knowledge or skill.
4. Unprofessional conduct (medical and/or military).
5. Failure to correct deficiencies despite counseling and or PLR.
6. Regression or failure to progress after removal from prior PLR or academic probation despite continued counseling.
7. Severe disciplinary problems.
8. Evidence of substance abuse (in accordance with applicable Service regulations).
9. Incident of gross negligence or willful misconduct to include a violation of the UCMJ.
10. Other circumstances deemed significant by the program director and training committee.

B. To place a resident on academic probation, the program director must notify the resident that the training committee is considering a proposal for academic probation. The program director and/or the program training committee will meet with the resident to discuss the proposal and to advise the resident of his/her right to due process under this policy. At this meeting (which *must* be accomplished at least *two weeks* prior to the scheduled GMEC in order

to provide adequate time for due process), the resident can provide verbal feedback. After the meeting, the resident will be given 7 days (unless specifically extended by the program director) to prepare any written feedback for further consideration.

C. If, after review of the resident's response (oral or written), the program director and program training committee decide to recommend academic probation, the program director and/or training committee will again meet with the resident and will inform the resident of the academic probation request that will be submitted to the Dean's Office for consideration by the SAUSHEC Executive Committee and for presentation at the GMEC. This notification and a signed acknowledgment by the resident that he/she has been informed of the plan must be maintained in the resident's training file.

D. The program director's recommendation for academic probation should include the following:

1. Specific competency based reasons for the proposed academic probation, a description of the evaluation tools used to determine a competency problem exists, and a list of prior documented attempts to resolve the problem. Use of the SAUSHEC Academic Action Template (ATT) is highly encouraged.
2. A proposed academic probation plan which includes: Recommended duration of academic probation; the steps for improvement during academic probation; measurable endpoints for successful completion of academic probation; the resources available to the resident to help him/her accomplish the academic probation goals; consequences of failing to remediate the problems identified, including the possible outcomes at the end of the academic probation.
3. Documentation that the resident has been informed of the academic probation proposal and informed he/she has a right to give input to the GMEC.
4. The resident's written response, if any, to the academic probation proposal.

E. The completed academic package will be forwarded to the service specific Associate Dean *no later than one week before the GMEC is scheduled to meet*. Failure to provide the complete packet by this deadline may result in delay of academic action until the following month. After review by the appropriate Associate Dean to ensure adherence with this due process policy the recommendation will be presented to the SAUSHEC Executive Committee for discussion and subsequently presented to a scheduled or ad hoc GMEC meeting. The resident has the option to give input to the GMEC meeting in the form of a brief oral (5 minutes or less) or written statement to the GMEC. No witnesses or legal representation is authorized at this meeting. A GMEC decision is determined by a simple majority vote of the voting members present.

1. If the GMEC votes to deny the recommendation, the program director will notify the resident of the GMEC decision verbally. The program director and the resident will meet with the Dean at which time they will be given GMEC decision in writing along with specific

comments as to what plan to pursue given that academic probation has been denied. The Dean must document this meeting and an acknowledgment of the meeting, signed and dated by the resident, will be maintained in the resident's training file by the Program Director.

2. If the GMEC votes to accept the program director's recommendation, the program director will notify the resident of the GMEC decision. If the resident disagrees with the decision he/she will notify the Program Director and the Dean immediately. The positive educational remediation aspects of the academic probation plan will commence at that time and continue pending review. Any adverse administrative components of the probation plan (such as patient care restrictions) will not be implemented until the Dean reviews these with the hospital commander or his/her representative, unless patient safety is an issue (in which case they will be implemented pending review by the Dean and Commander). The hospital commander's decision on the administrative parts of the probation plan will be implemented pending completion of the review process.

The Dean will set up a meeting with the program director and the resident to provide the resident the GMEC's decision in writing. The resident, at that meeting will be informed that he/she has the right to appeal, if desired, the decision through a faculty board hearing (See paragraph XI) or directly to the Dean as the final appellate authority. The resident's request for an appeal must be provided in writing (not via e-mail nor verbally) to the Dean within 5 working days of this meeting. Should an appeal process reverse the academic probation decision of the GMEC, the resident's training file will be amended to reflect that the resident was never placed on academic probation for this matter.

During academic probation, the program director will assign a faculty advisor to assist the resident with the academic probation plan. If appropriate, voluntary medical, mental health evaluation/support within the military healthcare system will be offered to the resident at no cost. Requests for mental health or learning disability evaluation outside the military health care system will be reviewed case-by-case on the merits of the request. The resident will be responsible for all costs associated with outside evaluations. The program director will give progress reports to the GMEC of the resident's performance during academic probation if requested by the GMEC. These reports will be submitted to the Associate Dean and to the probated resident no later than 5 working days before the GMEC meeting at which it will be presented and there must be documentation that the resident has received a copy of the progress report. The resident may also, if so desired, submit a written statement on his/her behalf to the GMEC when a progress report is given by the Program Director.

F. Extension of the academic probation period. An extension of academic probation can be recommended by the Program Director for up to an additional 3 months (academic probation will usually last 5 working days beyond a scheduled GMEC). The Program Director will notify the resident that he/she is requesting extension and the resident has the option to give brief written or oral input to the GMEC. A GMEC decision on probation extensions is determined by a simple majority of the voting members present. If GMEC votes to approve the extension of academic probation, the Program Director will verbally notify the resident immediately. The Dean will notify the resident in writing of this decision. There is no appeal of an extension of probation as this is not considered a new adverse academic action.

G. Academic Probation will end in one of the following ways:

1. Return to normal training status: The program director and the program training committee may determine the resident's performance has improved and meets the stated terms for successful remediation, i.e. all measurable endpoints have been achieved. The program director will then recommend the GMEC remove the resident from academic probation. Removal from academic probation requires a simple majority vote of the voting members present. Once approved by the GMEC, the Program Director will immediately notify the resident and the faculty and return the resident to normal training status. The Dean will provide the resident and program director with official written notification of the GMEC action.
2. Extension of training. (See paragraph IX.)
3. Termination. (See paragraph X.)
4. Resignation. (See paragraph XII.)

IX. Extension of Training. (See also Appendix I) Extension of training may be necessary to 1] allow the resident make up missed training time to meet training time requirements of the RRC or specialty board or 2] to give the resident additional training time he/she needs to acquire the Knowledge Skills and Attitudes in the six general competencies necessary to be an independent practitioner. Extension of training requests are handled the same as probation requests. (See paragraph VIII.)

A. Usually, brief periods of absence from training can be accommodated without an extension of training as long as the absence does not interfere with the requisites for residency training and the resident is progressing appropriately. Occasionally an extension of training is necessary for training missed due to medical, personal or administrative reasons unrelated to poor academic performance. These are not to be considered adverse academic actions or reportable events.

B. Requests for extension in training (because the resident needs extra training time to meet program standards) usually follows a period of Program Level Remediation and GMEC approved academic probation. This is considered an adverse academic action and the resident has the right to appeal the decision by the GMEC for an extension of training for academic deficiencies or other problems. The appeal is conducted either by direct appeal to the Dean or through a faculty board hearing. (See paragraph XI.). Given that SAUSHEC has residents from all branches of the Service, any extension appeal beyond the Consortium will follow the appeals process unique to that branch.

C. Since extension of training may affect future professional assignments, special pay, and/or military obligations, HQDA/OTSG (DASG-PSZ-MG) for Army residents and the HQ AFPC/DPAME for Air Force residents, must be notified as soon as a resident is being considered for an extension of training. These offices must be officially notified of the extension when the Dean notifies the resident of the GMEC decision to recommend an extension of training.

X. Termination from Training. (See also Appendix II) Termination is the most serious academic action the GMEC can impose and means the program director and training committee feel the resident will be unable to obtain the Knowledge, Skills, and Attitudes in the domains of the six General Competencies necessary to be a fully independent practitioner in their specialty. Termination will normally be considered only after a period of GMEC approved academic probation, but may be considered after a single incident of gross negligence or willful misconduct. A recommendation for termination must be approved by a two-thirds majority vote of the GMEC voting members present.

A. Recommendation for termination must be based upon one of the following:

1. Failure to satisfactorily correct deficiencies while on academic probation.
2. Regression or failure to satisfactorily progress after removal from prior academic probation.
3. When continuation in training presents a hazard to patients or the resident.
4. Any evidence of gross negligence, willful misconduct or professional dishonesty. This may be a pattern of past performance or may reflect a single act. Under these circumstances the resident may be placed on administrative duties and removed from patient care responsibilities until resolution of the termination process. Termination under these circumstances requires notification of appropriate hospital authorities.
5. Failure to meet significant military/professional milestones or requirements (determined by Service Regulation and Policy) despite documented attempts at remediation.
6. Other circumstances that indicate to the program director and the training committee that the resident cannot be successful in achieving the goals and objectives of the program.

B. The program director must notify the resident that a proposal for termination is being considered. The program director and/or the program training committee will meet with the resident to discuss the proposal for termination and advise the resident of his/her right to due process under this policy. At this time the resident can provide verbal feedback to the program director and program committee. After the meeting, the resident will be given 7 days (unless specifically extended by the program director) to prepare any written feedback for further consideration. The timing of this meeting is identical to the Academic Probation process noted above in paragraph VIII B.

C. If, after review of the resident's input, the program director and program training committee decide to recommend termination, the program director will inform the resident of the termination request (and the intent to present it to the GEC) and inform the resident of the right to give written or oral input to the GMEC (the process is identical to the probation notification

described in paragraph VIII). A record of this notification including a signed acknowledgment by the resident must be maintained in the resident's training file.

D. A recommendation for termination to the GMEC should include the following:

1. Specific reasons for the proposed termination outlining the competencies that are not being achieved, the evaluation tools used to make this determination and a summary of past attempts to correct the problems including copies of previous probation request(s), if applicable.
2. Documentation the resident was notified of the termination proposal.
3. The resident's response, if any, to the termination proposal.

E. The program director's recommendation packet, due to the GME office *at least one week* before the scheduled GMEC, will be reviewed by the appropriate Associate Dean, discussed at the SAUSHEC Executive Committee, and then presented to the GMEC at a scheduled (or ad hoc, if necessary) GMEC meeting. A GMEC decision on termination is determined by a two-thirds vote of the voting members present. If the GMEC denies the termination recommendation, the program director will immediately notify the resident. The Dean will meet with the program director and resident and review, in writing, the GMEC decision with specific recommendations as to how the Program Director is to proceed with regard to the resident and his/her training status.

If the GMEC votes to accept the program director's termination recommendation, the program director will notify the resident of the GMEC decision and move the resident to administrative duties if this has not already been done. If the resident objects and plans to appeal, the Dean will meet with resident's commander (or designee) who will determine what the resident's status should be during the faculty board appeal process. If appropriate, voluntary medical, mental health or other support will be offered to the resident at no cost to the resident. Requests for evaluation outside the military treatment facilities will be reviewed case-by-case on the merits of the request. The resident will be responsible for all costs associated with outside evaluations. The Dean will set up a meeting with the Program Director and the resident to provide the resident with the GMEC's decision in writing. This meeting will be documented by the Dean and an acknowledgment signed and dated by the resident will be obtained, a copy of which will be maintained in the resident's training file by the Program Director.

The resident has the right to appeal the GMEC's termination decision through a faculty board hearing (See paragraph XI). Request for a faculty board hearing must be provided in writing (not by e-mail or verbally) to the Dean within 5 working days of the notification meeting. If the resident declines a faculty board hearing, the Dean will have the case reviewed by the Associate Dean of the opposite uniformed service to provide a final analysis that due process was met and the interests of both the resident and SAUSHEC have been protected. At a minimum that Associate Dean will review the documentation of the termination request, the resident's training file and interview the resident and the Program Director. If the Associate Dean concurs with the GMEC's termination recommendation, the final GMEC decision is then forwarded to the resident's commander. If the Associate Dean disagrees with the GMEC

recommendation, the Dean will have that Associate Dean re-present the case to the GMEC for a final vote, providing any additional information for consideration as appropriate. If 2/3 of the voting members present approve the termination, this final recommendation will be sent to the resident's commander.

XI. Faculty Board Hearing

A. Preliminaries. Failure of the resident to attend the faculty board hearing constitutes a waiver by the resident of his/her right to participate in the hearing. If the resident asks to be present, but subsequently cannot attend the scheduled hearing for a valid reason, and a reasonable delay would not make it possible for the resident to attend, then the faculty board hearing may proceed in the resident's absence. The circumstances and the necessity of proceeding with a faculty board hearing without the resident present will be clearly recorded in the minutes of the hearing.

B. Impartiality of faculty board. Adverse actions requiring a faculty board hearing are infrequent and will affect a resident's medical career; therefore, it is essential to provide an unbiased hearing for the resident and for SAUSHEC. Personnel participating in the faculty board hearing should be able to provide a fair and impartial review of the evidence presented. Members of the medical staff are not automatically disqualified from participating in a faculty board hearing because they are personally acquainted with the resident or the program director or because they have some knowledge of the matters giving rise to the academic action. However, these staff members should not have a preformed opinion on the matter in question. Any party may petition for disqualification of a member of the faculty board on the basis of bias, prejudice, or conflict of interest. The Dean will make the final decision on faculty board membership.

C. Members of faculty board.

1. When a hearing is authorized under this policy, the Dean will appoint in writing qualified faculty to serve as members.

a. The faculty board must be composed of at least 3 but no more than 5 voting members and may include other program directors and faculty. At least 1/3 of the voting members will not have voted at the GMEC meeting that considered the issue under review.

b. The Dean will designate a chair, usually the ranking member of the faculty board.

c. A resident representative will be assigned by the Dean as a peer review non-voting member and will serve as an advisor to the Chair of the faculty board.

D. The following personnel should not serve as members of a faculty board:

1. A person (e.g., DME, program director, or MTF commander) who has influenced any part of an investigation or action against the resident.

2. A person who has served as a military investigating officer in the case.

3. A person whose testimony or recommendation has played a significant part in initiating the action involving the resident.

E. Actions to be considered by a faculty board are probation, extension of training for academic deficiencies or termination.

F. Procedure. The chairperson of the faculty board shall ensure compliance with the following hearing procedures.

1. The resident shall be provided with at least 10 working days' advance notice of the scheduled Board date to gather evidence, to contact witnesses, and to prepare for the hearing. The chairperson will ensure that the resident understands the hearing procedure including his/her right to legal representation.

2. The resident has the right to consult legal counsel for advice on these issues. Legal council may be civilian (hired at the resident's expense) or military (if allowed by service specific regulations). The faculty board hearing is administrative in nature and not a court of law; consequently, during the hearing, the resident can consult with his/her legal counsel but counsel may not address the faculty board directly.

3. All materials, documentation, and evidence shall be submitted to the Deans office at least one week in advance of the hearing, so that of the program director, the resident and the faculty board can have 5 working days to review the material. Parties may submit additional materials or documentation closer to the hearing, provided that the chair agrees on the nature, extent, and timing of such document submission.

4. The chairperson should consult with military legal counsel before conducting the hearing and is encouraged to have a military legal advisor present during the proceedings, especially if legal counsel for the resident will be present at the hearing. These proceedings are not bound by formal rules of evidence or a strict procedural format because the hearing is administrative in nature (i.e., the rules of evidence prescribed for trials and courts-martial are not applicable). During the hearing, the faculty board may question witnesses. The chairperson and his/her legal advisor are authorized to administer oaths to hearing personnel and witnesses. The faculty board can review and discuss any of the submitted documents during the hearing. A military investigation report for the MTF commander can be provided to the faculty board for their review and an investigating officer may present relevant documentary evidence and testimony at the faculty board hearing; however, a military investigation should not be used as a substitute for an objective faculty board review of the academic issues.

5. The chairperson will arrange for orderly presentation of evidence. The chairperson, who may consult with the military legal advisor, should rule on any objections made by the resident on any of the witnesses or evidence.

a. The resident and program director may present evidence and witnesses in support of their respective positions and may ask questions of any of the witnesses under the direction of the Chair. In general, the resident and program director are entitled to hear all

testimony and examine all evidence that is presented at the hearing. However, the Chair can excuse any participant in the hearing from certain portions of the hearing if the Chair feels this will improve the chances of the faculty board obtaining a complete picture of the issues.

b. The hearing will be closed to the public. Only those persons approved by the chair will be allowed to attend any or all of the proceedings. The hearing and its results are confidential and will not be discussed with or released to anyone without the approval of the Dean and only then on a strict need to know basis.

6. After evidence is presented the voting members of the faculty board and the resident advisor to the Chair should deliberate in private and determine, by majority vote (of the voting members), their recommendations. The chairperson will submit to the Dean in writing a summary of the process followed during the proceedings and the recommendation of the board no more than 5 working days after the hearing. The faculty board members should bear in mind their responsibility to clearly document the factual basis for their recommendation(s). General statements and recommendations should be supported by specifically identified incidents or situations. Case histories relied upon should be tabbed as exhibits to the report and documented by copies of pertinent medical records where feasible. A minority report may be submitted if the faculty board recommendation is not unanimous. A record of the faculty board's report will be maintained in the appropriate GME office as part of the resident's records.

G. Faculty Board Recommendations

1. Academic probation or extension of training. If the recommendation is for academic probation or extension of training, this is referred to the Dean for final action. (See paragraph VIII and IX.)

2. Termination: If the recommendation is for termination, this is referred through the Dean to the resident's MTF commander for final action. The resident may submit, through the Dean, a written statement to the commander stating why the resident disagrees with the faculty board recommendations.

a. The MTF commander will approve, modify, or disapprove the recommendation of the faculty board and will direct appropriate action. The MTF commander may revoke the decision to terminate and place the resident on a defined period of probation with a recommended plan of remediation, or he may affirm the decision to terminate. The Dean will notify the resident in writing of the MTF commander's decision.

b. If the MTF commander's decision is to terminate, this will be forwarded to HQDA/OTSG (DASG-PSZ-MG) for Army residents and to HQAFPC/DPAME for Air Force residents. .

c. Appeal of SAUSHEC decision for termination. SAUSHEC has residents from all service branches. Each branch of uniformed military service will apply their appeal process to SAUSHEC termination recommendations.

XII. Resident Resignation. Residents may submit a written request to their program director seeking resignation from their program. The request will be considered by the program director, program training committee and forwarded to the Dean with the program's recommendation for action. This recommendation for action should state whether the program supports the residents request including the proposed effective date of the resignation; the circumstances of the resignation; whether or not performance has been satisfactory up to the time of resignation; how many months of training have been successfully completed by the resident; and whether the resident will be recommended for future GME training in the same specialty or a different specialty. This statement will be provided to the resident following an interview with the Dean, and the resident will acknowledge receipt of the statement. The GMEC will review the resident's request, the Program's recommendation and will make recommendations that the Dean will summarize and present to the resident and to the resident's MTF commander for his/her decision. The MTF commander's recommendation will be forwarded to HQDA/OTSG (DASG-PSZ-MG) for Army residents and to HQAFPC/DPAME for Air Force residents.

A resident may choose to resign instead of facing a pending academic action. However, once the GMEC has met and voted to uphold a program director's request for academic action, the resident *may not* resign in an effort to prevent an academic action from being reported on his/her academic record. Rather, following GMEC approval of an academic action, the resident may only resign *in lieu* of an adverse action, and the resignation letter (and resident record) will clearly state that the resignation was accepted following an impending adverse academic action

XIII. Reporting Adverse Academic Actions. When required by Department of Defense regulations, licensing or credentialing agencies, or by the specific uniformed service of the resident, adverse academic actions--to include probation, extension of training for academic deficiencies, and/or termination--will be reported by SAUSHEC to the MTF credentials office, service specific medical commands, and to HQDA/OTSG (DASG-PSZ-MG) for Army residents and to HQAFPC/DPAME for Air Force residents. The Office of the Surgeon General of the Army of the Air Force will determine if adverse academic actions should be reported to civilian agencies such as the National Practitioner Data Bank.

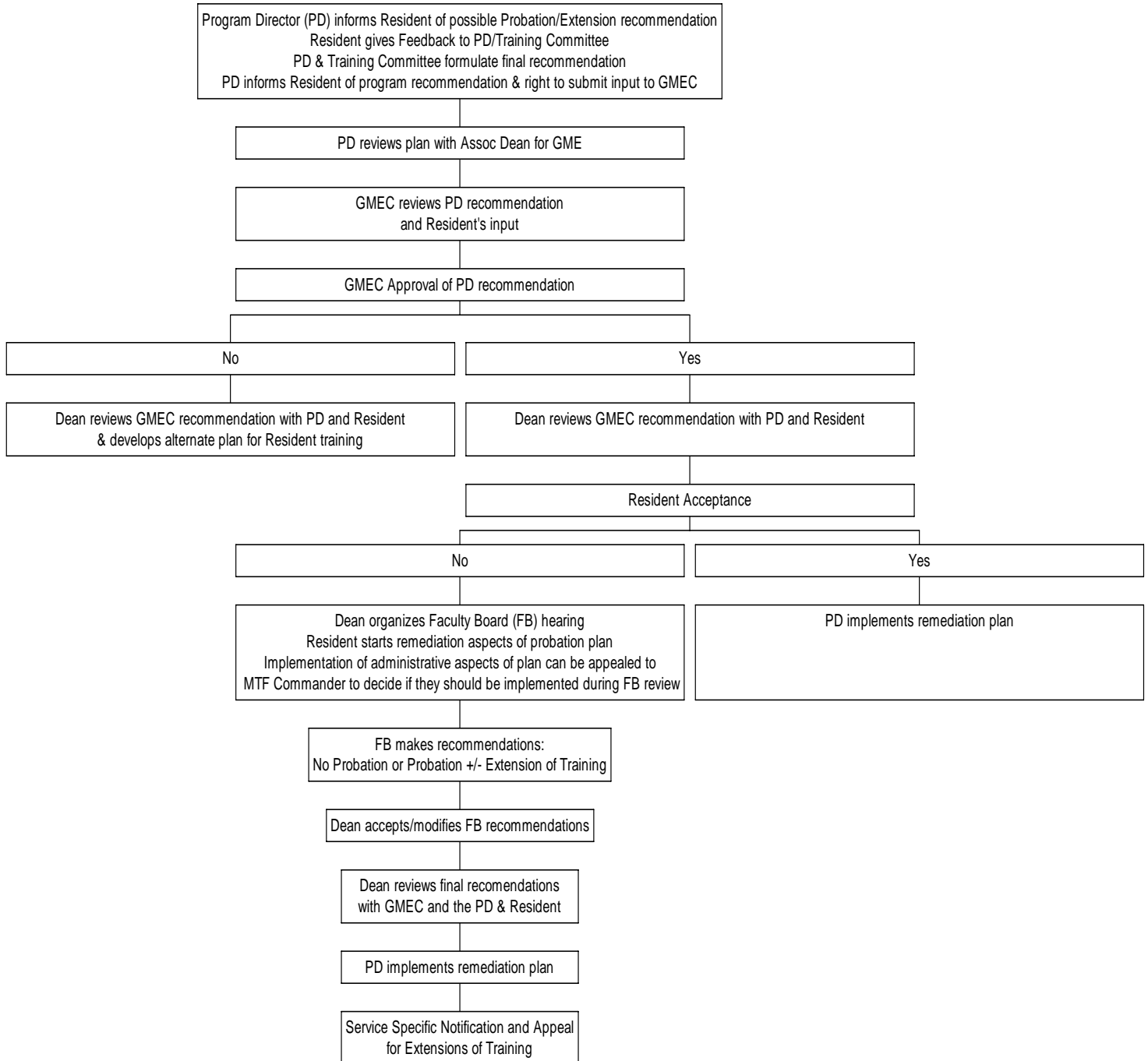
XIV. Re-Entry Into GME. Once a resident leaves a GME training program by resignation or termination, there is no option for reinstatement by SAUSHEC or its member institutions. The physician may only pursue further military GME training through application and selection by a designated GME Selection Board. Applicants must meet all current service specific eligibility requirements when submitting such an application.

References

1. Army Regulation 351-3, July 01
2. Army Regulation 40-68 w/IC 101, Section 4-9, 4-10, 26 Jun 91
3. Army memorandum, MCHO-ME-GME, 26 May 98, Subject: Compliance with Army Medical Licensure Requirements for Participation in Graduate Medical Education (GME)
4. Air Force Instruction 41-117, 23 Apr 01
5. National Capital Consortium Handbook, Uniformed Services University of Health Sciences, "IV. G. Policy on Adverse Actions and Due Process", <http://www.usuhs.mil/gme/NCCAdminHandbook.pdf>
6. University of Washington Resident Physician Policy, pgs 10-20, 2000-2001

APPENDIX I

Probation or Extension of Training Process



APPENDIX II

Termination Process

